IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2593 OF 2004

Shahnavaz A. Mithan : Petitioner

V/s.

The Deputy Registrar, Co-operative Societies & Ors. : Respondents

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Mr.R.B.Singhvi i/b. Pillai & Co., for the petitioner.

Mr.L.T.Satelkar, Asstt. Govt. Pleader, for respondent no.1.

Mr.P.K.Dhakephalkar for respondent no.5.

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CORAM : F.I. REBELLO, J.

October 1, 2004.

P.C.:

1. The contention of the petitioner is that though he had a statutory appeal under section 152-A of the Maharashtra Co-operative Societies Act, 1960, the Election Officer proceeded to declare the results without waiting for his appeal to be disposed of. He, therefore, submits that the said declaration is a nullity.

2. On the other hand, on behalf of the respondents, it is contended that the appeal preferred by the petitioner

herein has been rejected and the present petition is directed against that order. Once elections results are declared, the proper remedy if at all for the petitioner is to raise an election dispute by taking steps under section 91 of the Maharashtra Co-operative Societies Act. This Court has pointed out that it will have no jurisdiction to unseat candidates who have been declared to be elected. Even otherwise, those authorities are not parties to the proceedings. Lastly, an election of a candidate can only be challenged as per the procedure set out in section 91 of the Act and, consequently, this petition should be rejected. The fact that an appeal was filed and rejected would be of no consequence as the results were declared before the appeal was heard.

3. Having heard the learned counsel for the parties, I am of view that even if there have been irregularities committed once the result of the elections are declared, the proper remedy for the petitioner would be to raise an election dispute before the appropriate authority. In that light of that, no interference is called for.

4. The petition is rejected.

Sd/-

(F.I. REBELLO, J.)